

MARK E. FERRARIO, ESQ.
Nevada Bar No. 1625
CHRISTOPHER MILTENBERGER, ESQ.
Nevada Bar No. 10153
ALAYNE OPIE, ESQ.
Nevada Bar No. 12623
GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

Counsel for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Mark Allan Unterscher, an Individual,
4310 Fernwood Drive
Bismarck, ND 58503

Plaintiff,

v.

Holiday Inn Club Vacations, a Timeshare;
Spence Wilson, Chairman of Board,
8505 Irlo Bronson Memorial Highway,
Kissimmee, FL 34747

And

Holiday Inn Club Vacations, a Timeshare;
Adalberto Lugo, General Manager,
3950 Koval Lane, Las Vegas, NV 89109,

Defendants.

Case No.: 2:16-cv-02958-MMD-VCF

STATUS REPORT

AND

**STIPULATION AND ORDER TO STAY
ACTION PENDING FURTHER
SETTLEMENT DISCUSSIONS**

(Fourth Request)

Pursuant to the Court's October 10, 2017 Order (ECF No. 18) staying the matter for a period of 60 days, Plaintiff Mark Allan Unterscher ("Plaintiff") and Defendants Holiday Inn Club Vacations and Spence Wilson, Chairman of Board and Holiday Inn Club Vacations, a Timeshare; Adalberto Lugo, General Manager ("Defendants") (collectively the "Parties"), through their undersigned counsel, provide the following status report and further stipulate and request entry of an order staying the matter for an additional 49-day period pending the Parties' ongoing efforts to reach an amicable resolution of this matter.

STATUS REPORT

Prior to commencing this action, Plaintiff retained a consultant to perform an inspection of the Desert Club Resort property located at 3950 Koval Lane, Las Vegas, Nevada 89109 (the "Property"). As a result of that inspection, Plaintiff's consultant prepared a document entitled, ADA Accessibility Inspection Survey, dated August 26, 2016 (the "Survey"). After filing and serving his Complaint on Defendants, Plaintiff provided a copy of the Survey to Defendants' counsel for review and consideration. Defendants commenced internal review and analysis of the Survey and the Property.

Subsequently, Defendants conducted an internal review and analysis of the Survey and prepared a proposal to address the issues set forth in the Survey with respect to the Property in furtherance of resolving this case. Such an analysis included extensive site inspections of the Property and review and analysis of the Survey and applicable codes and regulations. As a result of their analysis and inspections, Defendants prepared a proposed plan (the "Proposed Action Plan") to address certain issues raised by the Survey and to resolve the claims set forth in Plaintiff's Complaint.

On August 8, 2017, Defendants provided a copy of their Proposed Action Plan to Plaintiff for his review and analysis as part of the parties' ongoing settlement discussions pursuant to the protections of Federal Rule of Evidence 408. Plaintiff, his counsel, and his consultant have reviewed Defendants' Proposed Action Plan. Counsel have addressed a potential resolution to many of the issues raised in the Survey, but additional time is needed to document such a resolution. While this resolution may not resolve all of the issues raised by the Survey, it would significantly narrow the disputed issues in this case and assist in leading to an efficient resolution of the Complaint as a whole.

As the parties are continuing to cooperate in good faith towards resolving as many of the issues raised in the Survey and the Complaint as possible, the parties are requesting an additional stay of the litigation in which to document the agreements and resolutions that can be reached.

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

This request is made in good faith based on the Parties' ongoing discussions and is not made for the purpose of needlessly delaying these proceedings.

DATED this ____ day of December, 2017

GREENBERG TRAURIG, LLP

By: /s/ Christopher R. Miltenberger
 MARK E. FERRARIO, ESQ.
 Nevada Bar No. 1625
 CHRISTOPHER MILTENBERGER, ESQ.
 Nevada Bar No. 10153
 ALAYNE OPIE, ESQ.
 Nevada Bar No. 12653

Attorneys for Defendants

///

ORDER

Based on the foregoing Status Report and Stipulation to Stay Action of the parties and good cause appearing, all proceedings and deadlines in the above-captioned matter are hereby STAYED for a period of 49 days through and including January 26, 2018.

The Parties shall submit a status report on or before January 26, 2018 setting forth the status of the Parties' negotiations, whether a resolution has been reached, and informing the Court whether a further stay is warranted or if the matter should proceed and the proposed deadlines if the matter is to proceed. Nothing herein shall prevent the parties from notifying the Court of a resolution and requesting a lift of the stay prior to its expiration as contemplated by this Stipulation.

IT IS SO ORDERED:



UNITED STATES MAGISTRATE JUDGE

DATED: 12-11-2017

Respectfully submitted:

GREENBERG TRAURIG, LLP

By: /s/ Christopher R. Miltenberger

MARK E. FERRARIO, ESQ.

Nevada Bar No. 1625

CHRISTOPHER MILTENBERGER, ESQ.

Nevada Bar No. 10153

ALAYNE OPIE, ESQ.

Nevada Bar No. 12653

Attorneys for Defendants